



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Fisherman's Channel Dredging and Beneficial Reuse Pilot Project

PUBLIC NOTICE NUMBER: 2012-00345N

PUBLIC NOTICE DATE: September 13, 2016

COMMENTS DUE DATE: October 12, 2016

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1. **INTRODUCTION:** The Humboldt Bay Harbor, Recreation, and Conservation District (HBHRCD) through its agent Douglas Davy (CH2M, 2485 Natomas Park Drive, Suite 600, Sacramento, California) has applied to the U.S. Army Corps of Engineers (Corps), San Francisco District, for a 10-year Department of the Army Permit to dredge approximately 500 cubic yards from the Fisherman's Channel entrance in King Salmon, Humboldt County, California. The purpose of the proposed dredging is to return the channel entrance to depths necessary safe navigational depths for boats. The proposed project also includes the installation of a temporary pipeline across Humboldt Bay to transport the dredged sediment. Upon completion of the project the pipeline would be removed. This Department of the Army Permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

The dredged sediment is proposed to be beneficially re-used for restoration purposes for the US Fish and Wildlife Service's White Slough Restoration project which the Corps previously permitted (file number: 2015-00124N). The dredged material will transported to the White Slough via a temporary dredge slurry pipeline.

2. PROPOSED PROJECT:

Project Site Location: As shown on attached plans, the Fisherman's Channel dredge site is located in King Salmon in Humboldt Bay, approximately 2.5 miles southwest of Eureka, California (see sheet 1 of the attached plans). The proposed dredge site is located in the entrance of the Fisherman's Channel.

Project Site Description: King Salmon is located on a peninsula. The dredge site is located on the southwestern part of the peninsula. It is separated from Humboldt Bay on the south and eastern sides of the channel by a jetty. The channel is connected to Humboldt Bay on the southern side by an open area approximately 100 feet wide.

Project Description: As shown in the attached drawings, the applicant plans to dredge approximately 500 cubic yards of sediment from the Fisherman's Channel entrance. The applicant intends to dredge the entire amount in one episode. The applicant proposes to dredge the two shoals at the mouth of the channel to a design depth of -6 feet mean lower low water (MLLW) plus two feet of overdepth allowance. The material would be removed used a hydraulic dredge and piped to the White Slough north basin in a temporary 12-inch pipeline. The pipeline will be floated above the water surface for 0.2 miles. The floating pipeline will be supported by ten (2-foot by 4-foot by 8-foot) floats attached to the pipeline. Then the pipeline would be routed along a 0.75 mile abandoned railroad right-of-

way, then 0.7 of a mile along an abandoned railroad track.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by the Corps to determine whether the project is water dependent. Although the purpose of the project, as stated above, is for safe navigational depths, for consideration in Section 404(b)(1) (Clean Water Act), the basic purpose of the project is the disposal or reuse of dredged material.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is the dredging of Fisherman's Channel and beneficial reuse of the dredged sediments and future dredge material from maintenance dredge projects in Humboldt Bay.

Project Impacts: There will be discharge (and subsequent reuse) of approximately 500 cubic yards of dredged sediments at the White Slough Unit of the Humboldt Bay National Wildlife Refuge consistent with the restoration plan and permits for the White Slough Unit.

The detrimental effects on erosion/sedimentation rates, substrate, water quality, fish habitat, air quality, and noise are all expected to be minor and short term. No permanent negative effects such as undesired substrate alteration, decreased water quality, loss of fish habitat, decrease air quality, and noise pollution are anticipated. The beneficial effects on economics, employment, safety and navigation, and of the removal of contaminants, are major and long term.

Proposed Mitigation: There will be temporary, direct and indirect impacts to approximately 0.31 acre of eelgrass habitat. Eelgrass beds provide habitat for many species of fish. The applicant proposes to

remove approximately 500 coal-tar-treated pilings from an acre site near Fields Landing (see sheets 1 and 6). This mitigation is expected to remove a potential contamination source, increase available habitat and improve conditions for eelgrass.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403 by the close of the comment period.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the state's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate state agency has issued a Consistency Certification or has waived its right to do so.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant has obtained a Conditional Use Permit from the County of Humboldt for placement of the pipeline. No other local approvals are required.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army Permit application and other supporting documentation, the Corps has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, the Corps will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and the Corps Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the Corps and other non-regulated activities the Corps determines to be within its purview of federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires federal agencies to consult with either

the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any federally-listed species or result in the adverse modification of designated critical habitat. Based on this review, the Corps has made a preliminary determinations:

The proposed project is not expected to affect any federally-listed plant species or critical habitat for listed plant species.

The proposed project could impact the following four federally-listed fish species:

1) North American green sturgeon (*Acipenser medirostris*) south of the Eel River in California as threatened under the Endangered Species Act on July 6, 2006 (71 Fed. Reg. 17757) is unlikely to be adversely affected by the proposed project because it is unlikely listed green sturgeon would be present within Fisherman's Channel during dredging.

Additionally, the proposed project is unlikely to adversely affect the North American green sturgeon's critical habitat which was listed on May 5, 1999 (64 Fed. Reg. 24,049). Green sturgeon habitat would be affected by removal of prey animals which would be expected to recolonize quickly.

2) Southern Oregon Northern California Coast (SONCC) Coho salmon (*Oncorhynchus kisutch*), listed as threatened on June 28, 2005 (70 Fed. Reg. 37,160), is unlikely to be adversely affected by the proposed project because it is unlikely SONCC Coho salmon would be present within Fisherman's Channel during dredging.

Additionally, the proposed project is unlikely to adversely affect the SONCC Coho salmon critical habitat which was listed on May 5, 1999 (64 Fed. Reg. 24,049). SONCC Coho salmon habitat would be affected by removal of prey animals which would be expected to recolonize quickly.

3) Central coastal ESU Chinook salmon (*Oncorhynchus tshawytscha*), listed as endangered on June 28, 2005 (70 Fed. Reg. 37,160 & 37,159), is unlikely to be adversely affected by the proposed project because it is unlikely Central coastal ESU Chinook salmon would be present within Fisherman's Channel during dredging because it is unlikely Central coastal ESU Chinook salmon would be present within Fisherman's Channel during dredging.

Additionally, the proposed project is unlikely to adversely affect the Central coastal ESU Chinook salmon critical habitat which was listed on July 10, 2000 (65 Fed. Reg. 42,422 & 42,481). Central coastal ESU Chinook salmon habitat would be affected by removal of prey animals which would be expected to recolonize quickly.

4) Northern California (NC) Steelhead (*Oncorhynchus mykiss*), listed as threatened on September 2, 2005 (70 Fed. Reg. 52,488 & 52,627), is unlikely to be adversely affected by the proposed project because it is unlikely NC steelhead would be present within Fisherman's Channel during dredging.

Additionally, the proposed project is unlikely to adversely affect the NC Steelhead critical habitat which was listed on July 10, 2000 (65 Fed. Reg. 42,422 & 42,481). NC steelhead habitat would be affected by removal of prey animals which would be expected to recolonize quickly.

The proposed project could affect the following two federally-listed bird species and would have no effect on designated critical habitat for bird species:

- 1) Marbled murrelet (*Brachyramphus marmoratus*), listed as threatened on September 28, 1992 (57 Fed. Reg. 45,328) is unlikely to be adversely affected by the proposed project.
- 2) Western snowy plover (*Charadrius nivosus* ssp. *nivosus*), listed as threatened on March 5, 1993 (58 Fed. Reg. 12864 12874) is unlikely to be adversely affected by the proposed project.

The Corps will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS)

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):

Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires federal agencies to consult with NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the federal lead agency for this project, the Corps has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, the Corps has made a preliminary determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. The proposed project is located within an area managed under the California Coastal coho, Coastal California Chinook salmon, Groundfish and Coastal pelagic species FMPs.

The bottom sediments to be dredged during maintenance dredge activities are composed mainly of silts and clays (mud). It is presumed that fish species utilizing the area would be using it for feeding during a period of growth. When dredging occurs, the fish should be able to find ample and suitable foraging areas in and along the Fisherman's Channel. As the infaunal community recovers in the dredged area, fish species will return to feed. Therefore, the proposed dredging is expected to have only short-term, minor adverse effects on EFH.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of

ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the MPRSA. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by the Corps indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee, by the close of the comment period.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the NHPA further requires federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance.

Because the Channel has been previously dredged, historic or archeological resources are not expected to occur in the project vicinity. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until the Corps concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the disposal of dredged material is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into waters of the U.S.

The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines to determine if the project is the least environmentally damaging practicable alternative.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public; federal, state and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by the Corps will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Debra O’Leary, San

Francisco District, Operations and Readiness Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the US Army Corps of Engineers, S. F. District website: <http://www.spn.usace.army.mil/Missions/Regulatory>.